

Amendment
Serial No. 10/824,302

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-15 are pending and stand rejected. Claim 1 is an independent claim.

Claim 1 has been amended.

Claims 1 and 14 stand rejected under 35 U.S.C. §102(e), as allegedly being anticipated by Barker (USP no. 5,555,335).

The Examiner has maintained the rejection of the claims in stating that Barker discloses "microspheres formed into the outer circumferential surfaces as seen in Figures 1-3, " Furthermore, Barker teaches that the microspheres are hollow and thus, unfilled."

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims. However, independent claim 1 has been amended to further recite the outer circumferential surface includes a plurality of top-opened recesses directly formed into the outer circumferential surface wherein each of the recesses has a crater shape and is unfilled. No new matter has been added. Support for the amendment may be found at least on page 6, lines 4-10. The amendment made to the claim 1 is made to recite the subject matter claimed in better form and not to overcome the references cited.

Barker describes an optical fiber that includes a plurality of microspheres that are embedded into an outer layer (see Figures 1-3). The microspheres extend the outer circumference of the cable by at least the half the size of the microspheres, assuming that the microspheres are embedded half-way into the outer layer.

Baker further teaches that the microspheres may be fully embedded into the outer layer.

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In this case, applicant believes that the areas containing the fully-embedded microspheres are considered by the Examiner to be comparable to the unfilled recesses recited in the claims.

However, applicant believes that the Examiner has misinterpreted the teaching of Baker in disclosing microspheres that may be hollow and, thus, unfilled.

Although the microspheres may be hollow, the microspheres are physical entities as shown in Figures 1-3, wherein the microspheres, in one aspect, extend outside the outer circumference of the cable. Hence, even if the microspheres are fully embedded within the outer circumference of the cable, such inclusion of the microspheres within the cable causes the cable to have recesses. But these recesses are filled with the microspheres, even if the microspheres themselves are unfilled.

Accordingly, Barker fails to disclose that the recesses are unfilled, as is recited in the claims.

A claim is anticipated only if a single reference sets forth each and every feature recited in the claim

Barker fails to anticipate the subject matter recited in claim 1, because Barker fails to disclose that the recesses in the outer layer are unfilled.

For at least the above reasons, applicant submits that the rejection has been overcome and respectfully requests withdrawal of the rejection.

With regard to the remaining claims as being unpatentable under 35 U.S.C. § 103 over the primary reference, Barker, and the other cited references, these claims depend from claim 1 and applicant respectfully traverse the rejection of all the remaining dependent claims.

As shown above Barker fails to teach all the elements recited in claim 1 and none of the references provide any teaching to correct the deficiency found in Barker.

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In order to establish a *prima facie* case of obviousness, three basic criteria must be met, 1. there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the reference teachings, 2. there must be a reasonable expectation of success; and 3. the prior art reference must teach or suggest all the claim limitations.

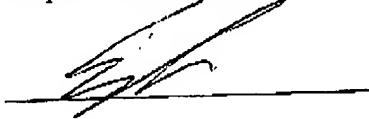
In this case, a *prima facie* case has not been made as each of the elements recited in the dependent claims is not disclosed by the combination of the primary reference and any of the cited references.

Accordingly, for the amendments made to claim 1, the rejection of all the dependent claims has been overcome and applicant respectfully request the rejections be withdrawn.

Should the Examiner deem that there are any issues which may be best resolved by telephone, please contact Applicant's undersigned representative at the number listed below.

For the amendments made to the claims and the arguments above, applicant respectfully requests that the rejection be withdrawn and a Notice of Allowance be issued.

Respectfully submitted,



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